

Insurance Market Update: July 2024

Construction Professionals PI

Since our January Market update, we have seen a rapid expansion and return of capital for construction professionals' risk. The new capital providers include:

- Lloyd's – syndicates
- Lloyd's syndicates providing capital via new Australian offices
- Australian insurers expanding their appetite
- Other returning international insurers.

As Simon Gray – Practice Leader, Construction Professionals, Bellrock Advisory recently commented:

Some of the “new” insurers are only providing capital on an excess layer basis and are not yet underwriting primary insurance. We continue to monitor and work with the market, noting this staggered return, and we expect most of the excess markets to be underwriting primary in the near future.

Capacity, however, remains heavily dependent on the size of the business, the nature of work being performed, asset types and risk maturity.

Insurance appetite capacity

There is ample capacity for small to medium enterprise businesses with insurers looking to build their books with this perceived lower risk area of the market. Insurance rates are dropping for SME's and we are seeing significant competition.

Insurers' construction professionals appetites are as follows:

July 2024 Market Update Construction Professionals Graph 1

We are now seeing competition in all areas which is a welcome relief after years of the “hard” market.

Certain activities and disciplines are still of concern for insurers including:

- High rise residential
- Façades design
- Design and Construct (D&C)
- Certification
- Complex infrastructure projects.

Stand out from the crowd: How to approach your renewal

It is still vitally important to prepare detailed submissions for insurers with the assistance of your advisor. A proposal form is simply not sufficient, and we suggest the following additional material be provided in a submission including:

- Claims history – detailed “lessons learned” from any previous claims
- Contract risk management – what is your process for reviewing and negotiating contracts? Do you obtain risk management advice from your risk advisor and from lawyers?
- Client selection processes – stop/go procedures
- ISO accreditation
- Internal training procedures including “lessons” learned
- CVs and Promotional material, such as capability statements and brochures outlining the professional services offered by the company
- Detailed list of largest projects undertaken in the last year
- Details of your peer review methodologies and processes.

Our key recommendations, drawn from experience in the hard market, remain best practice in a softening market and indeed all markets. For further information see our article [here](#)¹.

Policy coverage and claims handling – beware the softening market

As we have seen before in previous softening markets, the focus on market share and competition can have poor insurance policy outcomes for your business. New and returning insurers do not necessarily have the same level of market knowledge and experiences as those who remained in the market and do not necessarily have the most appropriate policy coverage.

Similarly, they may not have the same level of experience in handling construction professionals PI claims, having been out of the market for some time.



As always, choosing the right insurer/s for your business is a combination of various factors including coverage, claims handling ability and experience and, of course, premium/excess.

We note below some exclusion clauses to watch out for:

- Broad building materials exclusions
- Broad cladding exclusions
- Superintendency exclusions
- Costs estimates exclusions
- Extended duty of care under the D&BP Act exclusions
- Class 2 Buildings exclusions
- Consequential loss exclusions
- Contractual liability e.g. indemnity, hold harmless, waiver of subrogation exclusions
- Waiver of the right to Proportionate Liability exclusions.

Key issues

Some of the key issues at present include:

- The building and construction industry remains the leading contributor to insolvencies. Large building companies that have signed fixed price contracts cannot afford to fulfil contracts without losing

money due to increased costs. Debtor vigilance is fundamental to your business. See our article on this topic [here](#)²

- In NSW, the new Engineers Registration Scheme commences on 1 September 2024. This introduces a new Practice Standard for professional engineering work that includes a “fit for purpose” requirement. Thankfully, after consultation the strict and effectively uninsurable FFP requirement has been modified. For more information, please see our summary [here](#)³
- PFAS/PFOS/PFOA continue to emerge as new areas of risk in the construction and other industries. Safety in Design reports need to address these risks. For further information see [here](#)⁴
- The ban on engineered stone commenced on 1 July 2024. See our article [here](#)⁵ for details.
- The NSW Legislative Council's Public Accountability and Works Committee has commenced a review into the *Design and Building Practitioners Act 2020* and the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020*. The committee welcomes submissions from interested stakeholders which may be lodged via the committee's [website](#)⁶ until 2 July 2024.

1 <https://www.bellrock.com.au/stand-out-from-the-crowd-how-to-approach-renewals-in-a-hard-market/>

2 <https://www.bellrock.com.au/construction-insolvencies-rising-inflation-and-impacts-on-insurance/>

3 <https://www.bellrock.com.au/changes-to-registration-for-engineers-scheme/>

4 <https://www.pfas.gov.au/about-pfas/faq>

5 <https://www.bellrock.com.au/government-announces-prohibition-on-use-of-engineered-stone-what-are-the-insurance-implications/>

6 <https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=3049>